

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STACIE LEE AND JOHN LEE, Washington
residents,

Plaintiffs,

vs.

WEBB ROAD MAINTANENCE GROUP, a
Washington Limited Liability Company, and
WILLIAM MACARAS,

Defendants.

NO.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
AND DAMAGES**

COMES NOW, Plaintiffs, Stacie Lee and John Lee, by and through their attorneys
Washington Civil & Disability Advocate for their Complaint for Declaratory and Injunctive
Relief and Damages to state and allege as follows:

I. INTRODUCTION

1. Defendants are a homeowners association, and its managers and directors, who
are primarily occupied with managing and maintaining about 1.25 miles gravel of road servicing
about 65 homes. Defendants have negligently violated Plaintiffs' equal housing rights and
discriminated against Plaintiffs on the basis of disability. Defendants have discriminated against

1 Plaintiffs by “maintaining” and altering the gravel road so that Plaintiff Stacie Lee cannot travel
 2 along the road using her wheelchair. Plaintiffs’ vehicle, modified to accommodate a wheelchair,
 3 cannot traverse the speed bumps put in place by Defendants, despite Defendants’ knowledge of
 4 the issue. Plaintiff Stacie Lee and her husband John Lee have resided near the end of Webb Road
 5 for almost 9 years (long before Defendant Webb Maintenance Group declared itself in charge of
 6 Webb Road) and Ms. Stacie Lee requires a power wheelchair for mobility due to her disability.
 7 Defendants have steadily increased the height of the speed bumps over the last several years, first
 8 denying Ms. Lee the ability to travel on the road in her wheelchair, and finally causing damage
 9 to her wheelchair-accessible vehicle and essentially trapping her in her home.

10 2. The Fair Housing Act and the Washington Law Against Discrimination guarantee
 11 the right to equal use and enjoyment of the homes of people with disabilities. Defendants’
 12 insistence on increasing speed bump size is not only discriminatory but is also negligent and has
 13 caused monetary damages in addition to a loss in Plaintiffs Stacie and John Lee’s quality of life.

14 II. PARTIES

15 3. Plaintiffs Stacie Lee and John Lee are residents of Lakebay in Pierce County,
 16 Washington. They are Washington residents and reside in this district.

17 4. Defendant Webb Road Maintenance Group (the “HoA”) is homeowners
 18 association formed in the last 4-5 years.

19 5. Defendant William Macaras is the president of the Webb Road Maintenance
 20 Group.

21 6. The identities of the other directors or members of the board of the Webb Road
 22 Maintenance Group are currently unknown and Plaintiffs will amend this Complaint when
 23 additional defendants become known.

III. JURISDICTION AND VENUE

7. This court has jurisdiction pursuant to 28 U.S.C. § 1331, which gives district courts original jurisdiction over civil actions arising in the Constitution, laws, or treaties of the United States.

8. This court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(4), which gives district courts jurisdiction over actions to secure civil rights under Acts of Congress.

9. This court has jurisdiction pursuant to 28 U.S.C. § 1367, which gives district courts supplemental jurisdiction over related state law claims.

10. Venue is appropriate in this judicial district under 28 U.S.C. § 1391 because the practices and procedures that gave rise to the Plaintiffs' Complaint for Declaratory and Injunctive Relief and Damages occur in this district and the gravel road that is the subject of this litigation lies within this district.

IV. FACTUAL ALLEGATIONS

11. Plaintiffs John and Stacie Lee moved into their home almost 9 years ago – more than 4 or 5 years prior to the formation of the Webb Road Maintenance Group.

12. Webb Road Maintenance Group declared itself the keeper of the road in 2014 or 2015, and assumed responsibility and control over the repair and maintenance of the road.

13. When the more than 60 Webb Road residents “voted” the Webb Road Maintenance Group into existence as a homeowners association, via a mail-in ballot that counted non-responding residents as “yes” votes, the new homeowners association assessed an initial fee, which the Lees paid.

14. The HoA subsequently assessed annual fees, and the Lees dutifully paid their fees for the first several years.

1 15. The Lees attend a meeting earlier in 2016 and learned speedbumps would be
2 placed on Webb Road.

3 16. On August 5, 2016, the Lees sent a letter from their attorney to the HoA notifying
4 that if the speedbumps were made any higher the Lees would not be able to drive over them
5 without significant damage to their vehicle.

6 17. The HoA dismissed the Lees concerns in a letter in dated September 9, 2016.

7 18. Eventually, the HoA began implementing the speedbumps, which Ms. Stacie Lee
8 was unable to traverse in her wheelchair, and which scraped the bottom of the Lee's vehicle.

9 19. Ms. Stacie Lee requires a specially modified van with an extendible ramp to
10 safely accommodate her power wheelchair.

11 20. Subsequently, the height of the speedbumps steadily increased until the Lees
12 could hear the sides of their vehicle scraping against the speed bumps each time they traveled
13 Webb Road. And eventually they could no longer cross the speedbumps without damaging their
14 vehicle.

15 21. Since this time, Ms. Stacie Lee has been unable to walk her dogs in her
16 wheelchair due to the height of the speedbumps.

17 22. In fact, while Ms. Lee previously traveled the gravel road in her wheelchair to
18 walk her dogs, she has been unable to leave her residence without the use of her modified vehicle
19 since the speedbumps were put in, because her wheelchair will either tip over or become stuck if
20 she attempts to cross them.

21 23. Despite fair notice of the harm that would be caused the Lees, the HoA again
22 increased the height of the speedbumps on July 8, 2019 while the Lees were out of their home.

23 24. When the Lees attempted to return home later that day, they heard a loud crack

1 and grinding noise from under their car when crossing the speedbumps.

2 25. Upon inspection, the Lees discovered the body and undercarriage of their vehicle
3 had been broken and would need repair. A repair estimate provided by a specialized auto shop
4 that works on assistive mobility vehicles was several thousands of dollars.

5 26. Ms. Stacie Lee was effectively trapped in her home for weeks following the
6 damage to her vehicle for fear of permanently breaking her specialized van when crossing the
7 speedbumps or of becoming stranded on top of a speed bump when attempting to cross it.

8 27. Plaintiffs have suffered past damages due to Defendants' practices and are very
9 likely to continue suffering further damages in the future without an injunction from this Court.

10 **V. FIRST CAUSE OF ACTION**
11 **Federal Fair Housing Amendments Act**
12 **42 U.S.C. §§ 3604, 3613**

13 28. Plaintiffs incorporate by reference all allegations in the paragraphs above.

14 29. The Federal Fair Housing Amendments Act ("FHAA") makes it unlawful to
15 "discriminate against any person...in the provision of services or facilities in connection with [a]
16 dwelling, because of a handicap of

17 (A) that person; or

18 (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or
19 made available; or

20 (C) any person associated with that person. 42 U.S.C. § 3604(f)(2).

21 30. Under the FHAA, a person has a "handicap" when they have "a physical or
22 mental impairment which substantially limits one or more of such person's major life activities."
23 42 U.S.C.A. § 3602(h)(1). Plaintiff Stacie Lee uses a power wheelchair for mobility and is a
person with a handicap within the meaning of the FHAA. 42 U.S.C.. § 3602(h)(1).

1 31. Discrimination under the FHAA includes “a refusal to make reasonable
2 accommodations in rules, policies, practices, or services, when such accommodations may be
3 necessary to afford such person equal opportunity to use and enjoy a dwelling.” 42 U.S.C. §
4 3604(f)(3)(B).

5 32. Defendants control and implement the rules, policies, practices, or services for
6 maintaining Webb Road in connection with the Lees’ home.

7 33. Defendants discriminated against Ms. Lee by refusing to make reasonable
8 accommodations in maintaining Webb Road, despite knowing that the conditions of the speed
9 bumps exclude Ms. Lee from equally using and enjoying her home due to her handicap.

10 34. Defendants’ discriminatory conduct as alleged in this Complaint for Declaratory
11 and Injunctive Relief has harmed the Lees, and the harm will continue without declaratory and
12 injunctive relief.

13 35. Defendants’ discriminatory conduct as alleged in this Complaint for Declaratory
14 and Injunctive Relief entitles Ms. Lee to declaratory and injunctive relief as well as damages. 42
15 U.S.C. § 3613.

16 36. Defendants’ discriminatory conduct as alleged in this Complaint for Declaratory
17 and Injunctive Relief entitles Ms. Lee to recover reasonable attorneys’ fees and costs incurred in
18 bringing this action. 42 U.S.C. § 3613.

19 **VI. SECOND CAUSE OF ACTION**
20 **Violation of the Washington Law Against Discrimination**
 (R.C.W. §§ 49.60.010 et seq.)

21 37. Plaintiffs incorporate by reference the allegations in the paragraphs above.

22 38. Ms. Lee is a qualified individual with a disability within the meaning of the
23 Washington Law Against Discrimination (“WLAD”). R.C.W. §§ 49.60.040(7)(a).

1 39. Section 49.60.030(1) of the Revised Code of Washington provides in pertinent
2 part: “The right to be free from discrimination because of . . . the presence of any sensory,
3 mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall
4 include, but not be limited to: . . . (c) The right to engage in real estate transactions without
5 discrimination.”

6 40. Under section § 49.60.222(1)(f) of the Revised Code of Washington, it is an
7 unfair practice with respect to real estate transactions, facilities, or services to “discriminate in
8 the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person” due to that
9 person’s disability.

10 41. Discrimination due to disability includes: b) [refusal] to make reasonable
11 accommodation in rules, policies, practices, or services when such accommodations may be
12 necessary to afford a person with the presence of any sensory, mental, or physical disability
13 ...equal opportunity to use and enjoy a dwelling. R.C.W. § 49.60.222(2)(b).

14 42. Defendants Webb Road Maintenance Group and William Macaras and the other
15 officers/directors of the Webb Road Maintenance Group are responsible for setting the rules,
16 policies and practices for service and maintenance of Webb Road.

17 43. Defendants discriminate against Ms. Lee and violate the WLAD by refusing to
18 make reasonable accommodations in their policies and practices to maintain Webb Road in a way
19 that allows Ms. Lee equal opportunity to use and enjoy her dwelling by preventing entry and exit
20 without damage to her modified vehicle.

21 44. As a direct and proximate result of Defendants’ discriminatory conduct as alleged
22 in this Complaint for Declaratory and Injunctive Relief and Damages, Ms. Lee has suffered and
23 continues to suffer difficulty, hardship, isolation, and segregation due to Defendants’ failure to

1 make reasonable accommodations.

2 45. Pursuant to RCW § 49.60.030(2), Ms. Lee is entitled to declaratory and injunctive
3 relief and damages, and to recover from Defendants her reasonable attorneys' fees and costs
4 incurred in bringing this action.

5 **VII. THIRD CAUSE OF ACTION**
6 **Negligence**

6 46. Plaintiffs incorporate by reference the allegations in the paragraphs above.

7 47. Defendants were and are under a duty to manage and maintain Webb Road using
8 ordinary care, acting in a way a reasonably careful person would do in the same or similar
9 circumstances.

10 48. Defendants breached that duty by creating speed bumps too high for Plaintiffs'
11 modified van to traverse without damage or risk of damages, despite Plaintiffs' warning that
12 damage would occur.

13 49. Plaintiffs' modified van was damaged while crossing the unreasonably high speed
14 bumps, and Defendants are the actual and proximate cause of those damages to Plaintiffs'
15 modified van.

16 50. Damages in excess of \$3,000 were sustained by Plaintiffs including but not
17 limited to damage to the modified vehicle.

18 51. Additional damages were sustained by Plaintiffs for the loss of Ms. Lee's ability
19 to leave her residence unaided and for Mr. Lee's loss of companionship everywhere outside of the
20 immediate vicinity of their home.

21 **VIII. PRAYER FOR RELIEF**

22 WHEREFORE, Ms. and Mr. Lee respectfully request that this Court:

23 1. Assume jurisdiction over this action;

2. Find and declare Defendants WEBB ROAD MAINTANENCE GROUP and WILLIAM MACARAS to be in violation of the Federal Fair Housing Amendments Act, 42 U.S.C. §§ 3604 et seq, and the Washington Law Against Discrimination, Wash. Rev. Code §§ 49.60.010 et seq.;

3. Issue a permanent injunction ordering Defendants to immediately implement the necessary accommodations, changes, and policies to make Webb Road accessible for Plaintiffs and their vehicle;

4. Award the Lees reasonable attorneys' fees and costs as authorized by 42 U.S.C. § 3613 and R. C. W. § 49.60.030;

5. Award punitive, actual, compensatory, and/or statutory damages to Ms. Lee for violations of her civil rights as allowed under state and federal law;

6. Award compensatory damages for injury to Plaintiffs' vehicle resulting from Defendants' discrimination and negligence in maintaining Webb Road.

7. Award such additional or alternative relief as may be just, proper and equitable.

DATED THIS 20th day of September, 2019.

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